

REMARKS

Claims 1-30, 32-33, and 35-40 are pending. Claims 31 and 34 have been canceled without prejudice or disclaimer. Claims 1, 10, 17, 21, 27, 32, 33, 36, 38, and 40 are independent.

Claim 1

In the action mailed September 1, 2005, claim 1 was rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,934,768 to Block et al. (hereinafter "Block").

Claim 1 relates to a method that includes sending a data packet along a path from a first network point to a second network point, along the path, generating fragment packets from the data packet, analyzing the size of at least one of the fragment packets relative to a maximum packet size, and depending on a result of the analysis, re-setting the maximum packet size based on the size of the at least one of the fragment packets.

Block neither describes nor suggests analysis of the size of at least one fragment packet and re-setting the maximum packet size based on this size, as recited in claim 1.

Applicant respectfully disagrees with the rejection.

In this regard, Block deals with clustered computer systems in which a maximum transmission unit (MTU) parameter is changed using a distributed protocol. See, e.g., *Block*, col. 7, line 1-

15. Block's distributed protocol relies on deferring requested MTU parameter changes until coordinated changes can be made in both a source and multiple target nodes. *See, e.g., Block, col. 3, line 10-28.*

To achieve these coordinated changes, Block describes that a source node sends MTU change messages to several target nodes. *See Block, col. 10, line 62-65; FIG. 8, step S5.* The MTU change messages are "request[s] to change an MTU." *See Block, col. 10, line 32.* Further, the MTU change messages are typically smaller than a fragmentation size in the clustered system. *See Block, col. 11, line 2-6.* Indeed, if the MTU change messages were larger than the fragmentation size, errors could potentially be introduced into Block's cluster. *See id.* After receipt of the MTU change messages, the target nodes coordinate the change their local MTU for inbound message traffic. *See Block, col. 11, line 7-10.*

Block's target nodes are thus understood to change their MTU parameters based on the content of the MTU change messages rather than the size of the MTU change messages. Indeed, since the MTU change messages are typically smaller than the cluster fragmentation size, no MTU change message fragments are typically generated.

Further, an analysis of the size of the MTU change messages would not be yield information that is desirable for re-setting the maximum packet size. Instead, re-setting the maximum packet size based on the size of the MTU change messages would appear to sacrifice the difference in size between the current cluster fragmentation size and the size of the MTU change messages, eviscerating Block's stated intention of utilizing as large a fragmentation size as possible. See *Block*, col. 2, line 39-41.

The rejection of claim 1 points to col. 10, line 1-26, 37-61 and col. 11, line 7-9 of *Block* as allegedly describing the analysis of the size of at least one fragment packet. Applicant respectfully disagrees.

The cited text describes *Block*'s efforts to ensure that the MTU used during processing of incoming message fragments matches the MTU of the sending node. See *Block*, col. 10, line 1-8. To do this, *Block* coordinates the timing of MTU value changes at different nodes. *Id.* This coordinated timing is accomplished with the use of synchronization messages. See *Block*, col. 10, line 9-18; col. 10, line 37-45.

Block's handling of synchronization messages thus deals with the timing of a MTU value change rather than the maximum packet size that results from the change. This is not surprising, given that the desired maximum packet size is set forth in the content of *Block*'s MTU change messages. Further,

such a receipt of synchronization messages neither describes nor suggests analysis of the size of at least one fragment packet.

Since Block neither describes nor suggests elements and/or limitations of claim 1, claim 1 is not anticipated by Block. Accordingly, applicant requests that the rejections of claim 1 and the claims dependent therefrom be withdrawn.

Claim 10

Claim 10 was rejected under 35 U.S.C. § 102(e) as anticipated by Block.

As amended, claim 10 relates to a method that includes determining, at a receiving point, a maximum data packet size of a network path from a sending point to the receiving point based on a size of a data packet transmitted over the network path.

Block neither describes nor suggests such a determination. As discussed above, Block's MTU parameters are determined based on the content of the MTU change messages rather than their size. Further, since Block's MTU change messages are typically smaller than the fragmentation size in his cluster, an analysis of the size of Block's MTU change messages would typically not be sufficient to determine a maximum data packet size.

Since Block neither describes nor suggests elements and/or limitations of claim 10, claim 10 is not anticipated by Block. Accordingly, applicant requests that the rejections of claim 10 and the claims dependent therefrom be withdrawn.

Claim 17

Claim 17 was rejected under 35 U.S.C. § 102(e) as anticipated by Block.

As amended, claim 17 relates to a method that includes sending a data message along a network path from a sending point to a receiving point, determining the size of at least a fragment of the data message at the receiving point, and based on the determination, adjusting a maximum packet size between sending and receiving points.

Block neither describes nor suggests determining the size of at least a fragment of a data message, and based on the determination, adjusting a maximum packet size, as claimed. As discussed above, Block's MTU parameters are determined based on the content of the MTU change messages rather than their size. Indeed, the MTU changes messages are typically smaller than the cluster fragmentation size and not fragmented at all. If no MTU change message fragmentation typically occurs, the size of an MTU change message fragment cannot typically be determined and a maximum packet size cannot typically be adjusted based on such a determination.

Since Block neither describes nor suggests elements and/or limitations of claim 17, claim 17 is not anticipated by Block. Accordingly, applicant requests that the rejections of claim 17 and the claims dependent therefrom be withdrawn.

Claim 21

Claim 21 was rejected under 35 U.S.C. § 102(e) as anticipated by Block.

As amended, claim 21 relates to a method for determining a maximum packet size of a network path. The method includes sending a data packet along the network path to a receiving node, receiving a response from the receiving node, and setting the maximum packet size of the network path based on the response. The response from the receiving node includes information determined based on a size of a fragment of the data packet. The fragment was formed along the network path.

Block neither describes nor suggests determining a maximum packet size of a network path by receiving a response from a receiving node that includes information determined based on a size of a fragment formed along the network path.

In this regard, as discussed above, Block's MTU parameters are determined based on the content of the MTU change messages rather than their size. Indeed, Block does not appear to determine a size of the MTU change messages at all. Rather, Block only expects the MTU change messages to typically be smaller than the cluster fragmentation size and not fragmented at all. Since Block does not determine the size of the MTU change messages, it would appear self-evident that Block's nodes

do not respond with information determined based on a size of a fragment of the MTU change messages.

Since Block neither describes nor suggests elements and/or limitations of claim 21, claim 21 is not anticipated by Block. Accordingly, applicant requests that the rejections of claim 21 and the claims dependent therefrom be withdrawn.

Claim 27

Claim 27 was rejected under 35 U.S.C. § 102(e) as anticipated by Block.

As amended, claim 27 relates to a method that includes sending a data packet on a path from a first network point to a second network point, along the path, generating fragment packets from the data packet, and analyzing a size of at least one of the fragment packets to determine a path maximum packet size.

Block neither describes nor suggests analyzing a size of at least one of the fragment packets to determine a path maximum packet size, as recited in claim 27. As discussed above, Block's MTU parameters are determined based on the content of the MTU change messages rather than their size. Indeed, Block does not appear to determine a size of the MTU change messages at all.

Further, given that Block's MTU change messages are typically smaller than Block's cluster fragmentation size, applicant submits that such analysis would typically not be effective in determining the maximum packet size of the path.

Since Block neither describes nor suggests elements and/or limitations of claim 27, claim 27 is not anticipated by Block. Accordingly, applicant requests that the rejections of claim 27 and the claims dependent therefrom be withdrawn.

Claim 32

Claim 32 was rejected under 35 U.S.C. § 102(e) as anticipated by Block.

Claim 32 relates to a method that includes sending a data packet along a network path, fragmenting the packet into fragments, and analyzing the size of one or more of the fragments to determine the maximum packet size of the path. The data packet is larger than the maximum packet size of the network path.

Block neither describes nor suggests analyzing a size of at least one fragment packet to determine a path maximum packet size, as recited in claim 32. As discussed above, Block analyzes the content of MTU change messages rather than their size to determine MTU parameters. Indeed, the size of Block's MTU change messages appears to go unanalyzed.

Further, given that Block's MTU change messages are typically smaller than Block's cluster fragmentation size, applicant submits that such analysis would typically not be effective in determining the maximum packet size of the path.

Since Block neither describes nor suggests elements and/or limitations of claim 32, claim 32 is not anticipated by Block. Accordingly, applicant requests that the rejection of claim 32 be withdrawn.

Claim 33

Claim 33 was rejected under 35 U.S.C. § 102(e) as anticipated by Block.

Claim 33 relates to a method that includes sending a message along a network path, fragmenting the message into fragments, at a receiving point, measuring the size of the largest fragment, and communicating the size of the largest fragment to a sending point. The path includes sections, each having a maximum message size to limit the size of messages passing through it. The message is larger than the smallest maximum message size of the sections. The fragments are at least as small as the smallest maximum message size.

Block neither describes nor suggests measuring the size of the largest fragment of a message sent along a network path and communicating the size to a sending point. As discussed above, Block analyzes the content of MTU change messages or the timing

of the receipt of synchronization messages rather than the size of either. Indeed, it appears that the size of Block's MTU change messages and synchronization messages appears to go unanalyzed.

Since Block neither describes nor suggests elements and/or limitations of claim 33, claim 33 is not anticipated by Block. Accordingly, applicant requests that the rejections of claim 33 and the claim dependent therefrom be withdrawn.

Claims 36 and 38

Claims 36 and 38 were rejected under 35 U.S.C. § 102(e) as anticipated by Block.

Claim 36 relates to a computer program embodied in a computer readable medium. Claim 38 relates to a computer program embodied in a carrier wave. The programs of claims 36 and 38 are capable of configuring a computer to send a data packet along a path from a first network point to a second network point, along the path, generate fragment packets from the data packet, analyze the size of at least one of the fragment packets, and depending on a result of the analysis, re-set a maximum packet size based on the size of the one of the fragment packets.

Block neither describes nor suggests analysis of a size of at least one fragment packet and re-set of a maximum packet size based on the size, as recited in claims 36 and 38. As discussed

above, Block analyzes the content of MTU change messages rather than their size to determine MTU parameters. Indeed, the size of Block's MTU change messages appears to go unanalyzed. This is not surprising given that Block's MTU change messages are typically smaller than the cluster fragmentation size. In particular, no MTU change message fragments would typically be generated for analysis.

Further, even if the sizes of Block's MTU change messages were analyzed, applicant submits that such analysis would not be used by Block to re-set a maximum packet size. Block's MTU change messages are typically smaller than Block's cluster fragmentation size. Re-setting the maximum packet size based on the size of the MTU change messages would appear to sacrifice the difference in size between the current cluster fragmentation size and the size of the MTU change messages, eviscerating Block's stated intention of utilizing as large a fragmentation size as possible.

Since Block neither describes nor suggests elements and/or limitations of claims 36 and 38, claims 36 and 38 are not anticipated by Block. Accordingly, applicant requests that the rejections of claims 36, 38, and the claims dependent therefrom be withdrawn.

Claim 40

Claim 40 was rejected under 35 U.S.C. § 102(e) as anticipated by Block.

Claim 40 relates to a medium bearing intelligence configured to enable a machine to effect actions. The actions include sending a data packet along a path from a first network point to a second network point, along the path, generating fragment packets from the data packet, analyzing the size of at least one of the fragment packets, and depending on a result of the analysis, re-setting a maximum packet size based on the size of the one of the fragment packets.

Block neither describes nor suggests analysis of a size of at least one fragment packet and re-set of a maximum packet size based on the size, as recited in claim 40. As discussed above, Block analyzes the content of MTU change messages rather than their size to determine MTU parameters. Indeed, the size of Block's MTU change messages appears to go unanalyzed. This is not surprising given that Block's MTU change messages are typically smaller than the cluster fragmentation size. In particular, no MTU change message fragments would typically be generated for analysis.

Further, even if the sizes of Block's MTU change messages were analyzed, applicant submits that such analysis would not be used by Block to re-set a maximum packet size. Block's MTU

change messages are typically smaller than Block's cluster fragmentation size. Re-setting the maximum packet size based on the size of the MTU change messages would appear to sacrifice the difference in size between the current cluster fragmentation size and the size of the MTU change messages, eviscerating Block's stated intention of utilizing as large a fragmentation size as possible.

Since Block neither describes nor suggests elements and/or limitations of claim 40, claim 40 is not anticipated by Block. Accordingly, applicant requests that the rejection of claim 40 be withdrawn.

Applicant asks that all claims be allowed. No fees are believed due at this time. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Scott C. Harris
Reg. No. 32,030

Date:December 1, 2005

Fish & Richardson P.C.
12390 El Camino Real
San Diego, California 92130
(858) 678-5070 telephone
(858) 678-5099 facsimile

10568905.doc